

103^D CONGRESS
1ST SESSION

S. 167

To create a bipartisan commission to recommend ways to strengthen the protection of classified information and eliminate the classification of non-sensitive information.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. MOYNIHAN introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To create a bipartisan commission to recommend ways to strengthen the protection of classified information and eliminate the classification of non-sensitive information.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 TITLE I—SHORT TITLE

4 SEC. 101. This Act may be cited as the “Protection
5 and Reduction of Government Secrecy Act”.

1 TITLE II—COMMISSION ON PROTECTING AND
2 REDUCING GOVERNMENT SECRECY

3 PURPOSE

4 SEC. 201. It is the purpose of this title to establish
5 a study commission which will examine the implications
6 of the systematic overclassification of information and to
7 make recommendations to reduce the volume of informa-
8 tion classified and to strengthen the protection of legiti-
9 mately classified information.

10 FINDINGS

11 SEC. 202. (a) Following World War II the United
12 States and the Soviet Union engaged in a global conflict
13 known as the Cold War;

14 (b) During the Cold War a secrecy system developed
15 to enormous proportions, thereby limiting the public's ac-
16 cess to vital information and reducing the ability of the
17 public to participate with full knowledge in the process of
18 governmental decision-making;

19 (c) In 1990 6,797,720 documents were classified and
20 approximately three million persons held some form of se-
21 curity clearance;

22 (d) The burden of managing nearly 7 million newly
23 classified documents every year has led to reduced commu-
24 nication within the government and within the scientific
25 community, reduced communication between the govern-
26 ment and the people of the United States, tremendous ad-

1 ministrative expense and the selective and unauthorized
2 public disclosure of classified information;

3 (e) The requirement that approximately three million
4 persons obtain security clearances represents a substantial
5 loss of individual privacy which is inconsistent with Amer-
6 ican traditions;

7 (f) If a smaller amount of truly sensitive information
8 was classified expense, lost privacy and inhibitions on pub-
9 lic discussion would be reduced and the remaining classi-
10 fied information could be held more securely;

11 (g) In 1970 a Task Force organized by the Defense
12 Science Board and headed by Dr. Frederick Seitz con-
13 cluded that “more might be gained than lost if our Nation
14 were to adopt—unilaterally, if necessary—a policy of com-
15 plete openness in all areas of information;” and,

16 (h) A bipartisan study commission specially con-
17 stituted for the purpose of examining the consequences of
18 the secrecy system will be able to offer comprehensive pro-
19 posals for reform.

20 FUNCTION OF THE COMMISSION

21 SEC. 203. (a) The function of the Commission shall
22 be—

23 (1) to conduct an investigation into all matters
24 in any way related to any legislation, executive
25 order, regulation, practice or procedure relating to
26 the access to or the classification of information or

1 involving security clearances, including without limi-
2 tation access to classified information under the
3 Freedom of Information Act;

4 (2) to make such recommendations concerning
5 the classification of national security information as
6 the Commission shall see fit, including proposing
7 new legislation.

8 COMPOSITION OF THE COMMISSION

9 SEC. 204. (a) To carry out the purposes of this title,
10 there is established a Commission on the Protection and
11 Reduction of Government Secrecy (hereafter referred to
12 in this title as the “Commission”).

13 (b) The Commission shall be composed of the follow-
14 ing twelve members:

15 (1) four members appointed by the President,
16 two from the executive branch of the Government
17 and two from private life;

18 (2) four members appointed by the President of
19 the Senate, two from the Senate (one from each of
20 the two major political parties) and two from private
21 life; and

22 (3) four members appointed by the Speaker of
23 the House of Representatives, two from the House
24 of Representatives (one from each of the two major
25 political parties) and two from private life.

1 (c) The Commission shall elect a Chairman and a
2 Vice Chairman from among its members.

3 (d) Seven members of the Commission shall con-
4 stitute a quorum. Any vacancy in the Commission shall
5 not affect its powers, but shall be filled in the same man-
6 ner in which the original appointment was made.

7 (e) COMPENSATION AND TRAVEL EXPENSES.—

8 (1) COMPENSATION IN GENERAL.—Except as
9 provided in paragraph (2), each member of the Com-
10 mission may be compensated at not to exceed the
11 daily equivalent of the annual rate of basic pay in
12 effect for grade GS-18 of the General Schedule
13 under section 5332 of title 5, United States Code,
14 for each day during which that member is engaged
15 in the actual performance of the duties of the Com-
16 mission.

17 (2) GOVERNMENT PERSONNEL.—Members of
18 the Commission who are full-time officers or employ-
19 ees of the United States or Members of Congress
20 shall receive no additional pay on account of their
21 service on the Commission.

22 (3) TRAVEL EXPENSES.—While away from
23 their homes or regular places of business in the per-
24 formance of services for the Commission, members
25 of the Commission shall be allowed travel expenses,

1 including per diem in lieu of subsistence, in the
2 same manner as persons employed intermittently in
3 the Government service are allowed expenses under
4 section 5703(b) of title 5, United States Code.

5 POWERS OF THE COMMISSION

6 SEC. 205. (a) The Commission, or on the authoriza-
7 tion of the Commission, any subcommittee or member
8 hereof, may, for the purpose of carrying out the provisions
9 of this title, hold such hearings and sit and act at such
10 times and places, administer such oaths, and require, by
11 subpoena or otherwise, the attendance and testimony of
12 such witnesses and the production of such books, records,
13 correspondence, memorandums, papers, and documents as
14 the Commission or such subcommittee or member may
15 deem advisable. Subpoenas may be issued under the signa-
16 ture of the Chairman of the Commission, of any such sub-
17 committee, or any designated member, and may be served
18 by any person designated by such Chairman or member.
19 The provisions of sections 102 through 104 of the Revised
20 Statutes of the United States (2 U.S.C. 192–194) shall
21 apply in the case of any failure of any witness to comply
22 with any subpoena or to testify when summoned under au-
23 thority of this section.

24 (b) The Commission is authorized to secure directly
25 from any executive department, bureau, agency, board,
26 commission, office, independent establishment, or instru-

1 mentality information, suggestions, estimates, and statis-
 2 tics for the purpose of this title. Each such department,
 3 bureau, agency, board, commission, office, establishment,
 4 or instrumentality is authorized and directed, to the extent
 5 authorized by law, to furnish such information, sugges-
 6 tions, estimates, and statistics directly to the Commission,
 7 upon request made by the Chairman or Vice Chairman.

8 STAFF OF THE COMMISSION

9 SEC. 206. (a) The Commission shall have power to
 10 appoint and fix the compensation of such personnel as it
 11 deems advisable, without regard to the provisions of title
 12 5, United States Code, governing appointments in the
 13 competitive service, and without regard to the provisions
 14 of chapter 51 and subchapter III of chapter 53 of such
 15 title relating to classification and General Schedule pay
 16 rates.

17 (b) The Commission is authorized to procure the
 18 services of experts and consultants in accordance with sec-
 19 tion 3109 of title 5, United States Code, but at rates not
 20 to exceed the daily rate paid a person occupying a position
 21 at GS-18.

22 EXPENSES OF THE COMMISSION

23 SEC. 207. There are authorized to be appropriated
 24 such sums as may be necessary to carry out the provisions
 25 of this title.